

Maine Revised Statutes Annotated
Title 38, section 1661-C
Restrictions on sale and use of mercury

- 1. Fever thermometers.** Effective January 1, 2002, a person may not sell or supply a mercury fever thermometer to consumers and patients, except by prescription. With each mercury fever thermometer sold by prescription, the manufacturer shall supply clear instructions on the careful handling of the thermometer to avoid breakage and on proper cleanup should breakage occur. For purposes of this subsection, a “mercury fever thermometer” means a thermometer that contains mercury for the purpose of measuring body temperature, but does not include a thermometer containing mercury solely within a button-cell battery.
- 2. Manometers.** Effective January 1, 2002, a mercury-containing manometer of the type used in milking machines on dairy farms may not be sold or offered for sale, or distributed for promotional purposes in the State. Manufacturers of such manometers shall notify wholesalers and retailers about this ban and shall instruct them on how to properly dispose of the remaining inventory. The department, in consultation with the Department of Agriculture, Food and Rural Resources, shall conduct a program to collect and replace mercury-containing manometers already in use on dairy farms in the State.
- 3. Schools.** Effective January 1, 2002, bulk elemental or chemical mercury or mercury compounds may not be sold for use in a primary or secondary classroom in the State. Manufacturers of such materials shall notify wholesalers and retailers about this ban and shall instruct them on how to properly dispose of the remaining inventory. Mercury-added products used by schools are not subject to this ban.
- 4. Elemental mercury.** Effective January 1, 2002, a person may not sell or provide elemental mercury to another person except for manufacturing or recycling purposes without providing that person with a material safety data sheet, as defined in 42 United States Code, Section 11049, and without requiring the purchaser or recipient to sign a statement that the purchaser or recipient:

 - A.** Will use the mercury only for medical, dental amalgam dispose-caps, research or manufacturing purposes;
 - B.** Understands that mercury is toxic and that the purchaser will store and use it appropriately so that no person is exposed to mercury; and
 - C.** Will not place or allow anyone under the purchaser’s control to place or cause to be placed the mercury in solid waste for disposal or in a wastewater treatment and disposal system.
- 5. Mercury-added thermostats.** After January 1, 2006, a person may not sell or offer to sell or distribute for promotional purposes a mercury-added thermostat except for a thermostat used by a blind or visually impaired person. A manufacturer of mercury-added thermostats may apply to the commissioner prior to January 1, 2003 for an exemption from the provisions of this subsection for one or more specific uses of a mercury-added thermostat.

The Commissioner of Environmental Protection may grant an exemption with or without conditions upon finding that:

- A. The manufacturer has demonstrated that a system exists for the proper collection, transportation and processing of the mercury-added thermostat at the end of its life; and
- B. The specific use or uses of the mercury-added thermostat provide a net benefit to the environment, public health or public safety when compared to available nonmercury alternatives.

For the purposes of this subsection, a “mercury-added thermostat” means a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilating or air-conditioning equipment. “Mercury-added thermostat” includes thermostats used to sense and control room temperature in residential, commercial, industrial and other buildings but does not include a thermostat used to sense and control temperature as part of a manufacturing process.

6. Instruments and measuring devices. Effective July 1, 2006, a person may not sell or offer to sell or distribute the following mercury-added products:

- A. A barometer;
- B. An esophageal dilator, bougie tube or gastrointestinal tube;
- C. A flow meter;
- D. A hydrometer;
- E. A hygrometer or psychrometer;
- F. A manometer other than a manometer prohibited from sale under subsection 2;
- G. A pyrometer;
- H. A sphygmomanometer; or
- I. A thermometer other than a thermometer prohibited from sale under subsection 1.

This subsection does not apply to the sale of a mercury-added product listed in paragraphs A to I if use of the product is a federal requirement or if the only mercury-added component in the product is a button cell battery.

7. Mercury switches and relays. Effective July 1, 2006, a person may not sell or offer to sell or distribute a mercury switch or mercury relay individually or as a product component. This prohibition does not apply if the switch or relay is used to replace a switch or relay that is a component in a larger product in use prior to July 1, 2006 and one of the following applies:

- A. The larger product is used in manufacturing; or
- B. The switch or relay is integrated and not physically separate from other components of the larger product.

This subsection does not apply to the sale of mercury switch or mercury relay if use of the switch or relay is a federal requirement.

8. Exemptions. Subsections 6 and 7 do not apply to the sale of a mercury-added product for which an exemption is obtained under this subsection. The manufacturer or user of the product may apply for an exemption by filing a written petition with the commissioner. The commissioner may grant an exemption with or without conditions upon finding that:

A. The exemption is requested because the mercury-added product is required to meet specific advanced technology product specifications identified by the customer or end user of the product; or

B. The mercury-added product is reasonable and appropriate for specific use. In this situation, the petitioner must demonstrate that:

(1) A system exists for the proper collection, transportation and processing of the product at the end of its life; and

(2) One of the following applies:

(a) Use of the product provides a net benefit to the environment, public health or public safety when compared to available nonmercury alternatives; or

(b) Technically feasible nonmercury alternatives are not available at comparable costs.

Prior to approving an exemption, the commissioner may consult with neighboring states, by means of interstate clearinghouse under section 1671 or otherwise, to promote consistency in the way which mercury-added products are regulated. The commissioner may request individuals receiving an exemption to maintain records and provide reasonable reports to the department that characterize mercury use. Exemptions may be granted for a term not to exceed 5 years and may be renewed upon written application if the commissioner finds that the mercury-added product continues to meet the criteria of this subsection and the manufacturer or other persons comply with the conditions of its original approval. The board shall adopt rules for processing exemption applications that provide for public participation, taking into account the role of the interstate clearinghouse. Rules adopted under this subsection are routine technical rules pursuant to Title 5, Chapter 375, subchapter 2-A.